

01-09-06

DEP & REF



Express Mail Label No.: EV538962086US
Date of Deposit: January 6, 2006

Attorney Docket No. 22058-554

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2006 JAN 10 PM 4:03

US PATENT & TRADEMARK
OFFICE

APPLICANTS: Lyons *et al.*
SERIAL NUMBER: 10/005,228 EXAMINER: Maria Marvich
FILING DATE: December 3, 2001 ART UNIT: 1636
FOR: Method and Composition for Modulating Bone Growth

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REFUND

Applicants request a refund of \$500.00 fee (#21696) for the Notice of Appeal filed December 19, 2005 and the \$1,020.00 fee (check # 21695) for a three month extension of time also filed on this date. Enclosed is a copy of the Notice of Appeal filed on December 19, 2005 together with accompanying papers.

Applicants request the refund because the Notice of Appeal and accompanying fees were duplicative of a Notice of Appeal and petition for extension of time filed December 16, 2005 in the same application.

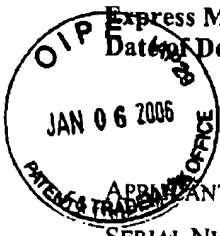
Please credit payments for any refund to the undersigned's Deposit Account No. 50-0311, Reference No. 22058-554.

Respectfully submitted,

Ivor R. Elrifi, Reg. No. 39,529
David E. Johnson, Reg. No. 41,874
Attorney for Applicants
c/o Mintz, Levin
Telephone: (617) 542 6000
Fax: (617) 542 2241
Customer No. 30623

Dated: January 6, 2006

TRA 2109371v.1



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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FILING DATE: December 3, 2001 ART UNIT: 1636
FOR: Method and Composition for Modulating Bone Growth

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Transmitted herewith for filing in the above-referenced patent application are the following documents:

1. Request for Refund (1 pg.);
2. Copy of Notice of Appeal filed on December 19, 2005 (1 pg)
3. Copy of Petition for Extension of Time filed on December 19, 2005 (1 pg)
4. Copy of Checks and Dated Postcard (1 pg.);
5. Copy of Dated Express Mail Receipt (1 pg.); and
6. Return Postcard.

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at 617-542-6000, Boston, Massachusetts.

The Commissioner is authorized to charge any additional fees that may be due, or to credit any overpayment, to the undersigned's account, Deposit Account No. 50-0311, Ref. No. 22058-554. A duplicate copy of this transmittal letter is enclosed herewith.

Respectfully submitted,

Ivor R. Elrif, Reg. No. 39,529
David E. Johnson, Reg. No. 41,874
Attorney for Applicants
c/o Mintz, Levin
Telephone: (617) 542 6000
Fax: (617) 542 2241
Customer No. 30623

Dated: January 6, 2006

Express Mail Label No.: EV538962086US

Date of Deposit: January 6, 2006

Attorney Docket No. 22058-554



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Lyons *et al.*

PATENT NUMBER: 10/005,228

EXAMINER: Maria Marvich

FILING DATE: December 3, 2001

ART UNIT: 1636

FOR: Method and Composition for Modulating Bone Growth

Commissioner for Patents
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Alexandria, VA 22313-1450

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The Commissioner is authorized to charge any additional fees that may be due, or to credit any overpayment, to the undersigned's account, Deposit Account No. 50-0311, Ref. No. 22058-554. A duplicate copy of this transmittal letter is enclosed herewith.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David E. Johnson", written over a horizontal line.

Ivor R. Elrif, Reg. No. 39,529

David E. Johnson, Reg. No. 41,874

Attorney for Applicants

c/o Mintz, Levin

Telephone: (617) 542 6000

Fax: (617) 542 2241

Customer No. 30623

Dated: January 6, 2006



Express Mail Label No.: E 475168561 US
Date of Deposit: December 19, 2005

Attorney Docket No. 22058-554

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : Lyons et al.
SERIAL NUMBER : 10/005,228 EXAMINER : Maria Marvich
FILING DATE : December 3, 2001 ART UNIT : 1636
FOR: METHOD AND COMPOSITION FOR MODULATING BONE GROWTH

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Transmitted herewith for filing in the above-identified application are the following documents:

1. Notice of Appeal (1 page);
2. Check No. 21696 in the amount of \$500.00 to cover the fee for filing a Notice of Appeal under 37 C.F.R. §1.17(b);
3. Petition for Extension of Time (1 page);
4. Check No. 21695 in the amount of \$1,020.00 to cover the extension fee; and
5. Return Postcard.

If the enclosed papers are considered incomplete, please contact the undersigned collect at 617-542-6000, Boston, Massachusetts. Charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0811, Attorney Ref. No. 22058-554.

Respectfully submitted,

David E. Johnson, Reg. No. 41,874
Attorney for Applicants
c/o MINTZ, LEVIN
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer No. 30623

EV475168561US

Date: December 19, 2005

Express Mail No. EV475108561 US
Date of Deposit: December 19, 2005

Attorney Docket No. 22058-554



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : Lyons et al.
SERIAL NUMBER : 10/005,228 EXAMINER : Maria Marvich
FILING DATE : December 3, 2001 ART UNIT : 1636
FOR: METHOD AND COMPOSITION FOR MODULATING BONE GROWTH

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTICE OF APPEAL

Applicants appeal to the Board of Patent Appeals and Interferences from the Examiner's June 17, 2005 Office Action finally rejecting claims 1-27 and 32 in the above-identified application. A check in the amount of \$500.00 for filing this Notice of Appeal is enclosed as required by 37 CFR § 1.17(b).

Applicants file herewith a petition for a three (3) month extension of time for extending the time for responding to the Office Action. With the extension, the Notice of Appeal is due on or before December 19, 2005, as December 17, 2005 fell on a Saturday.

The Commissioner is authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference 22058-554. A duplicate copy of this Notice is enclosed.

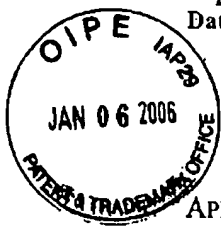
Respectfully submitted,

Ivor R. Elrifi, Reg. No. 39,529
David E. Johnson, Reg. No. 41,874
c/o MINTZ LEVIN
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer No. 30623

Dated: December 19, 2005

Express Mail No.: EV475108561 US
Date of Deposit: December 19, 2004

Attorney Docket No. 22058-554



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Lyons et al.
SERIAL NUMBER: 10/005,228 EXAMINER: Maria Marvich
FILING DATE: December 3, 2001 ART UNIT: 1636
FOR: METHOD AND COMPOSITION FOR MODULATING BONE GROWTH

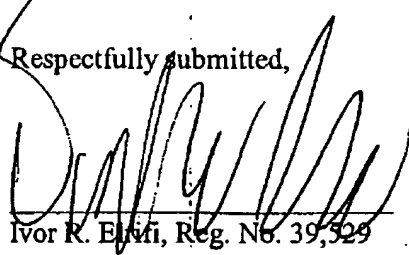
Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313.1450

PETITION FOR EXTENSION OF TIME

Pursuant to 37 C.F.R. §1.136(a), Applicants hereby petition for a three-month extension of time to file a Notice of Appeal. With the extension, the response is due on or before December 19, 2005, since December 17, 2005 is a Saturday. Enclosed is a check of \$1,020.00 in payment of the fee required under 37 C.F.R. §1.17(a)(3).

Please charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 22058-554. A duplicate copy of this Petition is enclosed.

Respectfully submitted,


Ivor R. Elmi, Reg. No. 39,529
David E. Johnson, Reg. No. 41,874
Attorneys for Applicants
c/o MINTZ LEVIN
Telephone: (617) 542-6000
Fax: (617) 542-2241
Customer No. 30623

Date: December 19, 2005



Serial No. 10/005,228 File No. 22058-554 By: TRE/DEJ/JT
Title: METHOD AND COMPOSITION FOR MODULATING BONE GROWTH

Application of: Lyons et al. Date: December 3, 2001

The U.S. PTO Mail Room acknowledges receipt of the following on the date stamped hereon:

<input type="checkbox"/> Req. for CPA under 37 CFR 1.53(d)	<input type="checkbox"/> Provisional Application Cover Sheet
<input type="checkbox"/> Change of Attorney's Address	<input type="checkbox"/> Inf. Disc. Statement, PTO Form 1449
<input type="checkbox"/> New Power of Attorney	<input type="checkbox"/> References Cited
<input type="checkbox"/> Patent Application	<input type="checkbox"/> Copy of Notice to File Missing Parts
<input type="checkbox"/> Non-provisional <input type="checkbox"/> Provisional	<input type="checkbox"/> Amendment/Response
Incl. _____ pages, (_____ pgs) Specification,	<input checked="" type="checkbox"/> Petition for Ext. of Time (x2)
(_____ pgs) Abstract, (_____ pgs) Claims (_____ # claims)	<input type="checkbox"/> Issue Fee Transmittal
<input type="checkbox"/> Design Patent Application	<input type="checkbox"/> Letter to Official Draftsperson
<input type="checkbox"/> Declaration(s)	<input checked="" type="checkbox"/> Notice of Appeal
<input type="checkbox"/> Drawings _____ sheet(s) (FIGS. _____)	<input type="checkbox"/> Brief (x3)
<input type="checkbox"/> Formal <input type="checkbox"/> Informal	<input checked="" type="checkbox"/> Check for \$ <u>1020.00</u> Check # <u>21695</u>
<input type="checkbox"/> Verified Statement claiming small entity status	<input type="checkbox"/> Transmittal Letter (x2)
<input type="checkbox"/> Assignment and Cover Sheet	<input type="checkbox"/> Cert. of Mailing under 37 CFR 1.8(a)
	<input checked="" type="checkbox"/> Express Mail Label No. <u>EV475168561 US</u>

☐ Other _____

DATE MAILED December 19, 2005

Express Mail No. US 475168561 US Date of Deposit: December 19, 2005

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO PC
ONE FINANCIAL CENTER
BOSTON, MA 02111

21695

PAY TO THE ORDER OF DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE DATE: December 19, 2005 \$ 1020.00

One thousand twenty + 00/100 DOLLARS

Bank of America
ACH R/T 011000138
FOR 22058-554 (3M EOI) JT

DO NOT EXCEED OVER \$10,000.00

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Express Mail No. US475168561 US Date of Deposit: December 19, 2005

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO PC
ONE FINANCIAL CENTER
BOSTON, MA 02111

21696

PAY TO THE ORDER OF DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE DATE: 12/19/05 \$ 500.00

Five Hundred + 00/100 DOLLARS

Bank of America
ACH R/T 011000138
FOR 22058-554 (Notice of Appeal) JT

DO NOT EXCEED OVER \$10,000.00

021696 000054585025



12-19-05

PATENT: Mail Stop AF

Customer No. 22,852

Attorney Docket No. 08702.0173-00000

AF\$
JFW

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

LYONS et al.

Application No.: 10/005,228

Filed: December 3, 2001

For: METHOD AND COMPOSITION
FOR MODULATING BONE
GROWTH

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Group Art Unit: 1636

Examiner: Maria Marvich

Confirmation No.: 7961

Mail Stop AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450CERTIFICATE UNDER 37 CFR § 1.10 OF
MAILING BY "EXPRESS MAIL"EV 618318201 US
USPS Express Mail Label NumberDecember 16, 2005
Date of DepositI hereby certify that this correspondence is being deposited with the United States
Postal Services "Express Mail Post Office to Addressee" service under 37 CFR §
1.10 on the date indicated above and is addressed to Mail Stop AF, Commissioner
for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By:

Katherine L. Staba
Katherine L. StabaNOTICE OF APPEAL UNDER 37 C.F.R. § 41.31

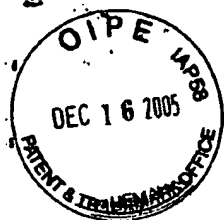
Sir:

Applicants appeal to the Board of Patent Appeals and Interferences from the
Examiner's decision mailed June 17, 2005.

The items checked below are appropriate:

1. ☐ A Petition for extension of time to respond to the final rejection was filed
on extending the period for response to .
2. ☒ A Petition for extension of time to further extend the period for response to
December 17, 2005 is enclosed together with authorization to charge a
fee of \$1,020.00 to Deposit Account No. 06-0916.
3. ☒ The Appeal Fee of \$500.00 (or \$250.00 if by small entity)
☐ is enclosed or ☒ is to be charged to Deposit Account No. 06-0916
4. ☐ A check for \$___ to cover the above fees is enclosed.

10005228
12/20/2005 DEMANU1 00000059 060916
500.00 DR
01 FC:1401
Adjustment date: 01/23/2006 SDENB0B1
12/20/2005 DEMANU1 00000059 060916
01 FC:1401 500.00 CR 10005228



PATENT
Customer No. 22,852
Attorney Docket No. 08702.0173-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
LYONS et al.) Group Art Unit: 1636
Application No.: 10/005,228) Examiner: Maria Marvich
Filed: December 3, 2001) Confirmation No.: 7961
For: METHOD AND COMPOSITION)
FOR MODULATING BONE)
GROWTH)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

CERTIFICATE UNDER 37 CFR § 1.10 OF
MAILING BY "EXPRESS MAIL"
EV 618318201 US December 16, 2005
USPS Express Mail Label Number Date of Deposit
I hereby certify that this correspondence is being deposited with the United States
Postal Services "Express Mail Post Office to Addressee" service under 37 CFR §
1.10 on the date indicated above and is addressed to Mail Stop AF, Commissioner
for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450.
By: Katherine L. Staba
Katherine L. Staba

PETITION FOR EXTENSION OF TIME

Applicants petition for a three-month extension of time to file a Notice of Appeal
following the Final Office Action of June 17, 2005. Please charge the fee of \$1,020.00
to deposit account 06-0916.

Please grant any extensions of time required to enter this response and charge
any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: December 16, 2005

By: Leslie A. McDonell
Leslie A. McDonell
Reg. No. 34,872

12/20/2005 DENMANU1 00000059 060916 10005228
02 FC:1253 1020.00 DR
Adjustment date: 01/23/2006 SDENBQB1
12/20/2005 DENMANU1 00000059 060916 10005228
02 FC:1253 1020.00 CR

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